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EXTRAORDINARY

25-6/भाग II—खण्ड 3—उपखण्ड (i)

PART II—Section 3—Sub-section (i)

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Department of Company Affairs)

(Company Law Board)

ORDER

New Delhi, the 27th March 1974

G.S.R. 172(E).—Whereas the Company Law Board is satisfied that, for the purpose of securing the optimum use of scarce resources of equipment, people and materials and to derive the maximum benefit from the collaboration agreements entered into with foreign firms and countries and for ensuring co-ordination in policy and the efficient and economical expansion and working of Heavy Electrical Units it is essential in the public interest that the Bharat Heavy Electricals Limited and the Heavy Electricals (India) Limited, being companies incorporated under the Companies Act, 1956 (1 of 1956), which are engaged in the production and sale of heavy electrical equipment, should be amalgamated into a single company;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (2) of section 396 of the Companies Act, 1956 (1 of 1956), read with notification of the Government of India in the Department of Company Affairs No. GSR 443(E), dated the 18th October 1972, the Company Law Board hereby makes the following Order, namely:—

1. **Short title.**—This order may be called the Heavy Electrical Companies Amalgamation Order, 1974.

2. **Definitions.**—In this Order, unless the context otherwise requires:—

(a) “appointed day” means the 1st January 1974;

(b) “dissolved company” means the Heavy Electricals (India) Ltd.

3. **Amalgamation of the Companies.**—As from the appointed day, the undertaking of the dissolved company subject to encumbrances thereon, if any, shall stand transferred to and vest in the Bharat Heavy Electricals Limited, which company shall immediately on such transfer be deemed to be the company resulting from the amalgamation. For accounting purposes, the amalgamation shall be carried out with reference to the audited accounts and Balance Sheets as on the 31st March 1973, of the two companies and the transactions thereafter will be pooled into a common account. The dissolved Company shall not be required to prepare its final accounts as of date, as Bharat Heavy Electricals Limited shall take over all assets and liabilities according to the Balance Sheet as on the 31st March 1973 and accept full responsibility for all transactions to date.

**Explanation.**—The “undertaking of the dissolved company” shall include all rights, powers, authorities and privileges and all property, movable or immovable, including cash balances, reserves, revenue balances, investments and all other interests and rights in or arising out of such property as may belong to, or be in the possession of, the dissolved company immediately before the appointed day and all books, accounts and documents relating thereto, and also all debts, liabilities and obligations of whatever kind then existing of the dissolved company.

4. **Transfer of certain items of property.**—For the purposes of this order, all the profits or losses, if any, or both, of the dissolved company as on the appointed day, and the revenue reserves or deficits, if any, or both, of the dissolved company, when transferred to the company resulting from the amalgamation under the provisions of this Order, shall respectively form part of the profits or losses, if any, or both, and the revenue reserves or deficits, as the case may be, of the company resulting from the amalgamation.

5. **Saving of contracts, etc.**—Subject to the other provisions contained in this Order, all contracts, deeds, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party subsisting or having effect immediately before the appointed day, shall be of as full force and effect against or in favour of the company resulting from the amalgamation, as the case may be, and may be enforced as fully and effectually as if, instead of the dissolved company, resulting from the amalgamation had been a party thereto.

6. **Saving of Legal Proceedings.**—If, on the appointed day, any suit, appeal or other legal proceedings of whatever nature by or against the dissolved company be pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the company resulting from the amalgamation of the undertaking of the dissolved company or of anything contained in this Order, but the suit, appeal or other proceedings may be continued, prosecuted and enforced by or against the company resulting from the amalgamation in the same manner and to the same extent as it would or may be continued, prosecuted and enforced by or against the dissolved company if this Order had not been made.

7. **Terms of transfer as respects shareholders in the dissolved company.**—(1) In consideration of the transfers aforesaid under clauses 3 and 4 thereof, as soon as may be after the appointed day, the company resulting from the amalgamation shall allot to every person registered as a shareholder in the dissolved company immediately before the appointed day as many shares in the company resulting from the amalgamation as are equivalent in number and value to the shares held by him in the dissolved company immediately before the appointed day.

(2) The company resulting from the amalgamation shall send by post to every person whose name is entered immediately before the appointed day in the Register of Shareholders in the dissolved company a notice giving particulars as to the allotment of new shares to him and an allotment letter for the new shares.

(3) Every shareholder in the dissolved company whose name appears in the Register of Shareholders in the dissolved company immediately before the appointed day shall be entitled on presentation, within two months from the date of receipt of the notice referred to in sub-clause (2), of the allotment letter and

the share certificate in respect of the shares held by him in the dissolved company, to receive in due course share certificates from the company resulting from the amalgamation in respect of the shares allotted to him.

(4) Any rights specified in sub-clause (3) shall during the period beginning with the appointed day and ending with the day immediately preceding the day on which the company resulting from the amalgamation issues fresh share certificates to the shareholders of the dissolved company, be transferable in like presentation, within thirty days from the date of transfer, of the letter of allotment, and the transferee of such right shall be entitled on presentation, within thirty days from the date of transfer, of the letter of allotment, to receive share certificate from the company resulting from the amalgamation in the same manner and to the same extent as the transferors would have been entitled.

8. **Provision with respect to taxation.**—All taxes in respect of the profits and gains of the business carried on by the dissolved company before the appointed day shall be payable by the company resulting from the amalgamation to the same extent as they would have been payable by the dissolved company if this Order had not been made.

9. **Provisions respecting existing officers and other employees of the dissolved company.**—Every officer or other employee (including within that expression the auditors but excluding therefrom the directors of the dissolved company) employed immediately before the appointed day in the dissolved company shall, as from the appointed day, become an officer or other employee, as the case may be, of the company resulting from the amalgamation and shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as he would have held the same under the dissolved company if this order had not been made, and shall continue to do so unless and until he is duly removed from his employment in the company resulting from the amalgamation or until his terms and conditions of employment are duly altered by that company.

10. **Position of Directors.**—Every director of the dissolved company holding office as such immediately before the appointed day shall cease to be a director of the dissolved company on the appointed day.

11. **Dissolution of Heavy Electricals (India) Ltd.**—Subject to the other provisions of this order, as from the appointed day:—

- (a) the Heavy Electricals (India) Ltd., shall be dissolved and no person shall make, assert or take any claims, demands or proceedings against ~~the dissolved company~~ or against a director or an officer thereof in his capacity as such director or officer, except in so far as may be necessary for enforcing the provisions of this Order, and
- (b) the right of every shareholder to or in respect of any share in the dissolved company shall be extinguished, and thereafter no such shareholder shall make, assert or take any claims or demands or proceedings in respect of any such share.

12. **Registration of the order by the Registrar of Companies.**—The Company Law Board shall, as soon as may be after the issue of this Order, send to the Registrar of Companies, Delhi and Madhya Pradesh, a copy of this Order together with a printed copy of the Memorandum of Association of the Bharat Heavy Electricals Ltd., as altered by this Order, on receipt of which:

(a) the Registrar of Companies, Delhi shall:—

- (i) register the Order on payment of the prescribed fees by the company resulting from the amalgamation, and certify under his hand the registration thereof within one month from the date of receipt of a copy of the Order;
- (ii) Make necessary alterations in the Memorandum of Association of Bharat Heavy Electricals Limited and

(b) the Registrar of Companies, Madhya Pradesh shall register the Order, certify under his hand the registration thereof, and shall forthwith despatch all documents registered, recorded or filed with him relating to the dissolved company, to the Registrar of Companies, Delhi, who shall, on receipt of such documents, place them on the file of the company resulting from amalgamation, and consolidate them and shall keep such consolidated documents on his file.

**13. Memorandum and articles of Association of the Company resulting from the amalgamation.**—The Memorandum and Articles of Association of the Bharat Heavy Electricals Limited as they stood immediately before the appointed day, shall, as from the appointed day, be the Memorandum and Articles of Association of the Company resulting from the amalgamation subject to the following modifications, namely:—

**I. Memorandum of Association:**

1. In paragraph V, for the words and figures “the authorised share capital of the Company is Rupees eighty-five crores divided into 8,50,000 equity share of Rs. 1,000 each”, the following shall be substituted:—

“The share Capital of the company is Rupees two hundred crores divided into 20,00,000 equity shares of Rs. 1,000 each”.

**II. The Articles of Association:**

1. For articles 4(a), the following article shall be substituted, namely:

“4(a) The capital of the Company consists of Rupees two hundred crores divided into 20,00,000 equity shares of Rs. 1,000 each”.

[No. 24/22/73-CL.III]

By order of the Company Law Board,

P. B. MENON, Member.